REMARKS

This paper is responsive to the Office Action of July 11, 2008, in which claims 1-67 are currently pending. All of the pending claims stand rejected. The Applicant requests reconsideration in light of the following arguments.

The Applicant thanks Examiner Kang for conducting the Examiners Interview on October 7, 2008. This Response includes the substance of that Interview.

The Examiner stated in the Office Action dated July 11, 2008, and during the Interview, that Bababian teaches, "the translation of the previously translated code is considered to be performed by a first translator instance and the next foreign code translation with the step of cache correspondence checking for the previously translated code is performed by a subsequent translation instance (i.e., second translator instance; col. 3 lines 14-25)." However, the Applicant contends that what the Examiner characterizes as a second translator instance in Bababian is not a translator instance at all, because it does not perform translation. Rather, what the Examiner characterizes as a second translator instance from Bababian col. 3, lines 14-25 is merely a software layer that checks correspondence of previously translated code.

As the Applicant set forth in the previous responses, Babaian provides only one translator instance – namely the translating processes 202-204 in the software layer 206 as shown in Figure 2. This one translator instance creates the translated code and stores the translated code into a code database 208. Then, later, the previously translated code is retrieved from the code database 208 for execution by the host computer 102 instead of performing another translation of the same sequence of foreign code. Here, we direct the Examiner particularly to column 7, lines 40-67 of Babaian, as well as column 3, lines 14-25 referenced in the Office Action.

In contrast, what the Applicant discloses in the specification and claims in claim 1 are two translation instances, each of which perform code translation. Claim 1 recites, ". . . a first translator instance which translates the subject code . . .", and, ". . . a second translator instance which translates the subject code . . ." (emphasis added). Claim 1 recites the first translator instance

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translating a first portion of the subject code, and the second translator instance translating a second portion of the subject code.

The specification, for example at paragraphs [0157] to [0161], describes the second translator instance translating the subject code when compatibility with the cached code does not exist. The specification also describes the second translator instance retrieving the cached target code upon detecting compatibility between the cached code and a portion of subject code (i.e., when compatibility does exist with some portion of the subject code). Claim 1 recites the second instance translating subject code that is not compatible with the cached target code, while retrieving the cached target code that is compatible with the subject code.

The software layer of Bababian that the Examiner characterizes as a second translator instance is not capable of translating any portion of the subject code. The software layer of Bababian is only capable of checking for correspondence between the "foreign code" and the cached host code (Bababian col. 3, lines 17-43).

In summary, Babaian does not disclose "providing a first translator instance…and providing a second translator instance…" as recited in the independent claims 1, 17, 33 & 49. For at least these reasons, independent claims 1, 17, 33 and 49 should be allowable. The remaining dependent claims should also be allowable since they depend from an allowable base claims. Further, the Applicant respectfully disagrees with the Examiner's analysis of the dependent claims, for the reasons discussed in the Applicant's response of 22 October 2007, among others.

At paragraphs 9-12, the Examiner rejects certain dependent claims under 35 U.S.C. 103(a). In light of the remarks above regarding Babaian and the independent base claims from which those dependent claims depend, the dependent claims rejected under 35 U.S.C. 103(a) should be allowable. The additional references cited in the 35 U.S.C. 103(a) rejections do not supply that which is missing from Babaian, i.e., do not teach or suggest first and second translation instances.

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In view of the above remarks, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-0219, under Order No. 1801270.00140US1 from which the undersigned is authorized to draw.

<div align="center">Respectfully submitted,</div>

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